

HOUSE BILL 2164

By Fitzhugh

AN ACT to amend Tennessee Code Annotated, Title 67,
Chapter 6, relative to sales and use tax.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-6-102, is amended by adding the following language as a new, appropriately designated subdivision:

() "Surplus state revenue" means the amount of revenue derived from state sales and use tax that is collected above the budgeted estimate as determined by the state funding board for a fiscal year;

SECTION 2. Tennessee Code Annotated, Title 67, Chapter 6, Part 1, is amended by adding the following language as a new section:

67-6-104.

(a) On April 15 of any fiscal year in which surplus state revenue is collected, the commissioner of finance and administration, in consultation with the commissioner of revenue, shall certify the amount of surplus state revenue collected for the then current fiscal year and, if a surplus exists, notify the governor, speaker of the senate, speaker of the house of representatives, state treasurer and the commissioner of revenue of such amount.

(b) One-half ($\frac{1}{2}$) of the amount certified in subsection (a) shall be allocated to, and placed in a special reserve account in the state treasury for the sole use by, the Tennessee student assistance corporation for additional Tennessee student assistance awards under title 49, chapter 4, part 3. Amounts remaining in the account at the end of each fiscal year shall not revert to the general fund. Money in the account shall be invested by the state treasurer pursuant to title 9, chapter 4, part 6, for the sole benefit of

the account. All earnings attributable to such investments shall be credited to the special reserve account.

SECTION 3. Tennessee Code Annotated, Section 67-6-228(a), is amended by deleting the language "subsection (b)" and by substituting instead the language "subsections (b) and (c)".

SECTION 4. Tennessee Code Annotated, Section 67-6-228, is amended by adding the following language as new subsection (c)

(c)

(1) In any year in which the commissioner of finance and administration certifies the existence of surplus state revenue under § 67-6-104, the rate of tax on the retail sale of food and food ingredients for human consumption shall be adjusted for the following fiscal year by reducing the rate. If surplus state revenue is certified for a fiscal year, then the tax rate on the retail sales of food and food ingredients for human consumption shall be reduced on July 1 for the next fiscal year to a rate that would reduce state revenue for such fiscal year in an amount equal to one-half ($\frac{1}{2}$) the amount of surplus state revenue for the fiscal year for which the commissioner made the certification. The tax rate shall be rounded to the nearest one-tenth of one percent (0.1%). By June 15 in any fiscal year in which a surplus amount is collected, the commissioner of revenue shall publish the rate of taxation at which the retail sale of food and food ingredients for human consumption shall be taxed beginning on July 1. This reduced rate shall remain in effect until such time as either the rate is again reduced pursuant to this subsection or the general assembly increases the tax rate on the retail sales of food and food ingredients for human consumption.

(2) The commissioner of revenue is authorized to promulgate rules and regulations as the department may deem necessary to effectuate the purposes of this subsection (c). All such rules and regulations shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

Notwithstanding provisions of § 4-5-208 to the contrary, the department of revenue is authorized to promulgate emergency rules to implement this subsection.

(3) Nothing in this subsection (c) shall be construed to reduce the rate of tax levied in accordance with part 7 of this chapter. A sum shall be earmarked and allocated from the general fund to hold counties and municipalities harmless from any loss of revenue from state-shared taxes directly resulting from the amendments to this section provided in this act.

SECTION 5. The provisions of this act shall not be construed to be an appropriation of funds and no funds shall be obligated or expended pursuant to this act unless such funds are specifically appropriated by the general appropriations act.

SECTION 6. This act shall take effect July 1, 2012, the public welfare requiring it.